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RUCPDO/DEPT OF COMMERCE WASHDC
RUEHKO/AMEMBASSY TOKYO 1098
RUEHBJ/AMEMBASSY BEIJING 4472
RUEHBY/AMEMBASSY CANBERRA 1537
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UNCLAS SECTION 01 OF 07 JAKARTA 003140

SIPDIS

SIPDIS

DEPT FOR INL, S/CT, EAP/MTS AND EEB/IFD/OMA
TREASURY FOR FINCEN
SINGAPORE FOR BAKER
COMMERCE FOR 4430-BERLINGUETTE
DEPARTMENT PASS FEDERAL RESERVE SAN FRANCISCO FOR FINEMAN

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SUBJECT: INDONESIA - INCSR II, MONEY LAUNDERING AND FINANCIAL
CRIMES

REF: STATE 137250

¶1. This report responds to reftel request for an anti-money
laundering and financial crimes update for INCSR II.

Background and Overview

¶2. Although neither a regional financial center nor an offshore
financial haven, Indonesia is vulnerable to money laundering and
terrorist financing due to a poorly regulated financial system, the
lack of effective law enforcement and widespread corruption. Most
money laundering in the country is connected to non-drug criminal
activity such as gambling, prostitution, bank fraud, piracy and
counterfeiting, illegal logging and corruption. Indonesia also has
a long history of smuggling, facilitated by thousands of miles of
un-patrolled coastline and a law enforcement system riddled with
corruption. The proceeds of these illicit activities are easily
parked offshore and only repatriated as required for commercial and
personal needs.

¶3. Banks and other financial institutions now routinely question the
sources of funds or require identification of depositors or
beneficial owners. Financial reporting requirements were put in
place in the wake of the 1998 Asian financial crisis when the GOI
became interested in controlling capital flight and recovering
foreign assets of large-scale corporate debtors or alleged corrupt
officials. As a result of Indonesia's ongoing efforts to implement
the reforms to its Anti-Money Laundering (AML) regime, the Financial
Action Task Force (FATF) removed Indonesia from its list of
Non-Cooperative Countries and Territories (NCCT) on February 11,
2005 and subsequent special FATF monitoring on February 11, 2006.
The removal of Indonesia from the NCCT list and special monitoring
recognized a concerted, interagency effort supported by President
Susilo Bambang Yudhoyono to further develop Indonesia's nascent AML
regime.

Laws and Regulations on Illicit Money Flows

¶4. In April 2002, Indonesia passed Law No. 15/2002 Concerning the
Crime of Money Laundering, Indonesia's anti-money laundering (AML)
law, which made money laundering a criminal offense. The law
identifies 15 predicate offenses related to money laundering,

including narcotics trafficking and most major crimes. Law No. 15/2002 established the PPATK to develop policy and regulations to combat money laundering and terrorist finance. This law stipulated important provisions to enhance an anti-money laundering regime, such as:

- A) The criminalizing of money laundering activities;
- B) The obligation of Providers of Financial Services to submit Suspicious Transaction Reports (STR) and Cash Transaction Reports (CTR);
- C) Reporting, investigation, prosecution and justice for criminal offences of money laundering are exempted from the provisions of bank secrecy that are stipulated in Indonesia's Banking Law;
- D) Placed the burden of proof, that assets were not from criminal activities on the defendant (instead of the prosecution having the burden of proving that the assets were derived from criminal activities, the onus is on the criminal to prove that the source of funds is legitimate to purchase assets);
- E) Established the Financial Transactions Reports and Analysis Center (PPATK) as an independent agency with the duty and authority to prevent and eradicate criminal offences of money laundering;
- F) Established a clear legal basis for freezing and confiscating the proceeds of crime.

Financial Transaction Reports and
Analysis Center (PPATK)

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13. PPATK, fully functional since October 2003, continues to make steady progress in developing its human and institutional capacity. The PPATK receives, maintains, analyzes, and evaluates currency and suspicious financial transactions, provides advice and assistance to relevant authorities, and issues publications. Total STRs obtained by PPATK from providers of financial services and total reporting parties develop from year to year aggressively. As of July 2007, the PPATK has received approximately 3,385 suspicious transactions reports (STRs) from 181 institutions. The volume of STRs has increased from an average of 10 per month in 2002, to 484 per month in 2007. The agency also reported that it had received over 3.6 million cash transaction reports (CTRs).

14. As of July 2007, there were 493 cases referred by PPATK to the Police and the AGO. Thus far, 32 cases/defendants have been successfully prosecuted, which seven of them were charged by money laundering offence. We believe the figure is a positive signal to produce timely outcomes of prosecutions for money laundering offenses: one case involving terrorism; 24 cases involving bank fraud and/or corruption in connection with money laundering; and eleven final judgments for money laundering offenses.

15. Indonesia's Anti-Money Laundering and Counter Terrorism Finance (CTF) Donors' Coordination Group, co-chaired by the PPATK and the Australian Agency for International Development (AUSAID), has become a model for AML/CTF donors' coordination groups in other countries. Since Indonesia's removal from the NCCT list, donors and the Government of Indonesia (GOI) have placed greater emphasis on more practical training; technical and capacity building assistance for the non-bank financial sector, police, prosecutors and judges; cash smuggling; and regulation of charities and money changers. The Asia Pacific Group (APG) in July 2006 named PPATK Chairman Yunus Husein as a co-chair of the regional FATF style organization for a two-year term. In November 2006, Indonesia hosted the annual APG Typologies Workshop.

16. The PPATK is actively pursuing broader cooperation with relevant GOI agencies. The PPATK has signed ten domestic memoranda of understanding (MOUs) to assist in financial intelligence information exchange with the following entities: Attorney General's Office

(AGO), Bank Indonesia (BI), the Capital Market Supervisory Agency (BAPEPAM), the Ministry of Finance Directorate General of Financial Institutions, the Directorate General of Taxation, DGCE, the Ministry of Forestry Center for International Forestry Research, the Indonesian National Police, the Supreme Audit Board (BPK), and the Corruption Eradication Committee. Government through the Presidential Decree No. 1/2004 established National Coordinating Committee on the prevention and eradication of the crime of money laundering as cooperating forum among relevant institutions in handling money laundering and terrorist financing.

Crime of Money Laundering

¶7. In September 2003, Parliament passed Law No. 25/2003 amending Law No. 15/2002 Concerning the Crime of Money Laundering that addressed many FATF concerns. Amending Law No. 25/2003 provides a new definition of the crime of money laundering making it an offense for anyone to deal intentionally with assets known or reasonably suspected to constitute proceeds of crime with the purpose of disguising or concealing the origins of the assets, as seen in Articles 1(1) and 3. The amendment removes the threshold requirement for proceeds of crime and expands the definition of proceeds of crime to cover assets employed in terrorist activities. Article 1(7)(c) expands the scope of regulations requiring STRs to include attempted or unfinished transactions. Article 13(2) shortens the time to file an STR to three days or less after the discovery of an indication of a suspicious transaction.

¶8. Article 17A makes it an offense to disclose information about the reported transactions to third parties, which carries a maximum of five years' imprisonment and a maximum of one billion rupiah (approximately \$110,000). Articles 44 and 44A provide for mutual legal assistance with respect to money laundering cases, with the ability to provide assistance using the compulsory powers of the court. Article 44B imposes a mandatory obligation on the PPATK to

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implement provisions of international conventions or international recommendations on the prevention and eradication of money laundering. The GOI in March 2006 enacted Indonesia's first Mutual Legal Assistance (MLA) Law (No. 1/2006), establishing formal, binding procedures to facilitate MLA with other states.

¶9. A proposed amendment to the law was submitted to the Parliament in October 2006. If passed, it would require non-financial service businesses and professionals who potentially could be involved in money laundering -- such as car dealers, property companies, jewelry traders, notaries and public accountants -- to report suspicious transactions. The current law requires only banks and financial service companies to report suspicious transactions. The amendment also would include civil asset forfeiture and give more investigative powers to the PPATK, as well as the authority to block financial transactions suspected of being related to money laundering. This would be the third amendment to the law.

Know Your Customer

¶10. As bank supervisor, Bank Indonesia (BI), the Indonesian Central Bank, is responsible for the supervision of the implementation of AML policy, which includes implementation of Know Your Customer (KYC) principles in the banking industry. Bank Indonesia's objective in this matter is to ensure that banks are not being utilized as targets and or mediums for money laundering activities since banks are the financial institutions most used by money launderers. In addition, Bank Indonesia is also authorized to supervise Non-Bank Money Changers given the fact that Money Changers are the next likely group to be used for money laundering, and Money Remittance business. This is also in line with the MoonexQu dering Law and international standards, which states th`t o*ey Changers shall also be subject to KYC principlesand AML.

¶11. BI issued Regulation No. 3/10/PBI/001, "The Application of Know Your Customer Priniples," on June 18, 2001. This regulation requies banks to obtain information on prospective custmers,

including third party beneficial owners, and to verify the identity of all owners, with personal interviews if necessary. The regulation also requires banks to establish special monitoring units and appoint compliance officers responsible for implementation of the new rules and to maintain adequate information systems to comply with the law. Finally, the regulation requires banks to analyze and monitor customer transactions and report to BI within seven days any "suspicious transactions" in excess of Rp 100 million (approximately \$1,000). The regulation defines suspicious transactions according to a 39-point matrix that includes key indicators such as unusual cash transaction, unusual ownership patterns, or unexplained changes in transactional behavior. BI specifically requires banks to treat as suspicious any transaction to or from countries "connected with the production, processing and/or market for drugs or terrorism."

¶12. BI has issued an Internal Circular Letter No. 6/50/INTERN, dated September 10, 2004 concerning Guidelines for the Supervision and Examination of the Implementation of KYC and AML by Commercial Banks. In addition, BI also issued a Circular Letter to Commercial Banks No. 6/37/DPNP dated September 10, 2004 concerning the Assessment and Imposition of Sanction on the Implementation of KYC and other Obligation Related to Law on Money Laundering Crime. BI is also preparing Guidelines for Money Changers on Record Keeping and Reporting Procedures and Money Changer Examinations given by BI examiners.

Cross Border Cash Carrying

¶13. Other mandatory reports in Indonesia AML regime, such as Cross Border Cash Carrying reports, have also been increasing significantly. Currently, banks must report all foreign exchange transactions and foreign obligations to BI. With respect to the physical movement of currency, Article 16 of Law No. 15/2002 contains a reporting requirement for any person taking cash into or out of Indonesia in the amount of 100 million Rupiah (approximately \$11,000) or more, or the equivalent in another currency, which must be reported to the Director General of Customs and Excise (DGCE). These reports must be given to the PPATK in no-later-than five

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business days and contain details of the identity of the person.

¶14. Indonesian Central Bank regulation 3/18/PBI/2001 and the DGCE Decree No.01/BC/2005 concerning the Reporting Procedure of Cross Border Cash Carrying, launched on January 2005, contain the requirements and procedures of inspection, prohibition, deposit of Indonesia Rupiah into or out of Indonesia. The Decree provides implementing guidance for Ministry of Finance Regulation No.624/PMK.04/2004 of December 31, 2004, which requires individuals who import or export more than rupiah 50 to 100 million in cash (approximately \$5,500-\$11,000) to report such transactions to Customs. This information is to be declared on the Indonesian Customs Declaration, 524 Forms BC 3.2 have been filed with Customs and submitted to PPATK by the end of 31 December 2005 and 1,432 Forms by the end of 31 December 2006.

¶15. As of 30 June 2007, 1,855 Forms BC 3.2 have been filed with Customs and submitted to PPATK. The reports were derived from 2 (two) airports, namely Jakarta Cengkareng and Denpasar, 2 (two) seaports, namely Batam and Tanjung Balai Karimun, and 1 (one) post office in Bandung. Up to 31 July 2007 PPATK obtained 1,887 reports from DGCE, derived from five jurisdictions of Customs: Jakarta, Tanjung Balai Karimun, Bandung, Batam and Denpasar. And up to 31 July 2007, Indonesian National Police has conducted investigation of 20 cases derived from reporting of Cross-Border Cash Carrying Report.

Bank Information, Disclosure and Records

¶16. There is a mechanism to obtain access to confidential information from bank through BI Regulation Number 2/19/PBI/2000 on September 7, 2000 concerning "Requirements and Procedure for Written Order or Permission to Access Confidential Bank Information." PPATK has the authority to conduct supervision and monitoring compliance

of providers of financial services. PPATK may also advise and assist relevant authorities concerning information obtained by the PPATK in accordance with the provisions of this Law No 15/2002. Thus, there are mechanisms governing information exchange between the Directorate General for Taxation (DG Tax) and PPATK by considering limitations stipulated under Laws and regulations related with these two agencies and the MOU between them. The Law also stipulates some provisions in which PPATK shall have authority to request suspicious transactions reports and additional information from providers of financial services.

¶17. Banks and non-bank financial institutions (NBFI) shall keep and maintain documents and records related to its customers for at least five years after the closing of a customer's account. Indonesia's bank secrecy law covers information on bank depositors and their accounts. Such information is generally kept confidential and can only be accessed by the authorities in limited circumstances. However, Article 27(4) of the Law No. 15/2002 now expressly exempts the PPATK from "the provisions of other laws related to bank secrecy and the secrecy of other financial transactions" in relation to its functions in receiving and requesting reports and conducting audits of providers of financial services. In addition, Article 14 of the Law No. 15/2002 exempts providers of financial services from bank secrecy provisions when carrying out their reporting obligations, and Article 15 of their anti-money laundering legislation gives providers of financial services, their officials and employees protection from civil or criminal action in making such disclosures.

Freezing, Blocking and Seizing Assets

¶18. Indonesian laws provide only limited authority to block or seize assets. Under BI regulations 2/19/PBI/2000, police, prosecutors, or judges may order the seizure of assets of individuals or entities that have been either declared suspects, or indicted for a crime. This does not require the permission of BI, but, in practice, for law enforcement agencies to identify such assets held in Indonesian banks, BI's permission would be required. In the case of money laundering as the suspected crime, however, bank secrecy laws would not apply, according to the anti-money laundering law.

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¶19. The GOI has limited formal instruments to trace and forfeit criminal and civil assets. Under the Indonesian legal system, all types of confiscations against all types of assets must be taken through criminal justice proceedings and be based on a court order. This confiscation process is initiated with freezing and seizing process against said assets. Thus, the GOI has the authority to trace and freeze assets of individuals or entities on the UNSCR 1267 Sanctions Committee's consolidated list, and through BI, has circulated the consolidated list to all banks operating in Indonesia, with instructions to freeze any such accounts.

¶20. When new names are added to the 1267 list, however, the GOI's multi-step process through three agencies is currently too complex and inefficient to send out asset-freezing instructions in a timely manner. The interagency process to issue freeze orders, which includes the Foreign Ministry, Attorney General, Police, and BI, takes several weeks or more from UN designation to bank notification. Banks also note that without very specific information, the preponderance of similar names and inexact addresses, along with the lack of a unique identifier (such as the U.S. social security number) in Indonesia make identifying correct accounts very difficult. The implementation of this process has not led to the discovery of accounts or assets of individuals or entities on UN 1267 consolidated list. However, during the course of terrorism investigations, the Indonesia police have located and frozen accounts of individuals on the UN 1267 consolidated list.

¶21. Article 32 of Law Number 15 Year 2002 as amended by Law Number 25 Year 2003 provides that investigators, public prosecutors and judges are authorized to freeze any assets which are reasonably suspected to be the proceeds of crime. Article 34 stipulates that if sufficient evidence is obtained during the examination of the

defendant in court, the judge may order the sequestration of assets known or reasonably suspected to be the proceeds of crime which have not already been sequestered by the investigator or public prosecutor concerned. In addition, Article 37 provides for a confiscation mechanism if the defendant dies prior to the rendition of judgment. Goods forfeited shall be defined as goods owned by the accused derived from an offence and goods intentionally used to commit an offence.

¶22. In October 2006, the GOI submitted to Parliament additional amendments to Law No. 15/2002 that would provide the PPATK with preliminary investigative authority and the ability to temporarily freeze assets. The amendments are intended to provide technical investigative support to police and prosecutors and to deter capital flight. The GOI in August 2006 enacted Indonesia's first Witness and Victim Protection Law (No. 13/2006). Indonesia's AML Law and Government Implementing Regulation No. 57/2003 also provide protections to whistleblowers and witnesses.

¶23. The October 18, 2002, emergency counter-terrorism regulation, the Government Regulation in Lieu of Law of the Republic of Indonesia (Perpu), No. 1 of 2002 on Eradication of Terrorism criminalizes terrorism and provides the legal basis for the GOI to act against terrorists, including the tracking and freezing of assets. The Perpu provides a minimum of three years and a maximum of 15 years imprisonment for anyone who is convicted of intentionally providing or collecting funds that are knowingly used in part or in whole for acts of terrorism. This regulation is necessary because Indonesia's anti-money laundering law criminalizes the laundering of "proceeds" of crimes, but it is often unclear to what extent terrorism generates proceeds.

¶24. The Special Detachment 88 of the Indonesian National Police and the Task Force of Terrorism and Transnational Organized Crime of the AGO maintain the statistic related to financing of terrorism. The Indonesian police have ordered the freezing of accounts owned by individuals suspected of connection with acts of terrorism. These individuals include Ali Gufron, Parlindungan Siregar, Utomo Pamungkas, Abdul Azis, Nasaruddin Bin Abdul Jalil, Faithi Bin Abu Bakar Bafana, Siliwangi, Ramiah Nasution, Susmiati, Tursiak, Syarifah Zarniyah, Sujiati, Edi Indra, Fahjry, Hernianto, Muthmainah and Hussein. Also accounts belonging to a company PT Yasa Edukatama.

¶25. National Police investigators have investigated some

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perpetrators of the crime of terrorism, in which some of them are involved in Bali Bombing Attacks I and II, terrorist attack in J. W Marriott Hotel, terrorist attack in the residence of Philippines Ambassador, terrorist attack in Australian Embassy. National Police investigators investigated such perpetrators and convicted them for the crime of terrorism, not terrorist financing with a consideration that the criminal sanction of terrorism crime is more serious than terrorist financing. If investigators require information on the flow of fund related with terrorist attacks, National Police investigators always coordinate with PPATK. In October 2004, an Indonesian court convicted and sentenced one Indonesian to four years in prison on terrorism charges connected to his role in the financing of the August 2003 bombing of the Jakarta Marriott Hotel.

Alternative Remittance Systems

¶26. The GOI has recently begun to take into account alternative remittance systems or charitable or nonprofit entities in its strategy to combat terrorist finance and money laundering. The PPATK has issued guidelines for non-bank financial service providers and money remittance agents on the prevention and eradication of money laundering and the identification and reporting of suspicious and other cash transactions. The GOI has initiated a dialogue with charities and nonprofit entities on improving regulation and oversight of those sectors.

International Agreements and Arrangements

¶27. Indonesia is an active member of the Asia/Pacific Group on Money Laundering (APG) and the Bank for International Settlements. BI claims that it voluntarily follows the Basel Committee's "Core Principles for Effective Banking Supervision." The GOI has enacted Law Number 7 Year 1997 to implement the 1988 Vienna Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances. In addition the GOI also has enacted Law Number 22 Year 1997 concerning Drugs and Psychotropic Substances, which makes the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption a criminal offence.

¶28. The GOI has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. In 2006 Indonesia formally ratified two International Conventions regarding terrorism: The International Convention for the Suppression of Terrorist Bombing, 1997, was ratified by Law Number 5 Year 2006 and The International Convention for the Suppression of the Financing Terrorism, 1999, was ratified by Law Number 6 Year 2006. Cooperation between the Indonesian law enforcement agencies and its foreign counterparts is intended to prevent and combat the crime of money laundering, which is a trans-national crime.

¶29. Bilateral arrangements on mutual legal assistance on criminal matters will facilitate the seizure of such assets as governed in Law Number 1 Year 2006 concerning Mutual Legal Assistance in Criminal Matters. Currently, Indonesia has concluded bilateral treaties with Australia, the People's Republic of China and Republic of Korea. Investigators, public prosecutors or judges have the authority to order banks or financial service providers to freeze the assets of any person believed or with reason to believe to be the proceeds from acts of terrorism and/or crimes related to terrorism, irrespective of the amount or value.

¶30. In June 2004, PPATK became a member of the Egmont Group and has entered into MoUs with 22 (twenty two) FIUs. As such, it is bound to share financial intelligence with other members in accordance with the organization's charter. The PPATK is actively pursuing broader cooperation with other Financial Intelligence Units (FIUS) and has MOUs with Thailand, Malaysia, Republic of Korea, Philippines, Romania, Australia, Belgium, Italy, Spain, Poland, Peru, Mexico, China, Burma, Canada, South Africa and the Cayman Islands. The PPATK has also entered into an Exchange of Letters enabling international exchange with Hong Kong. Indonesia has signed Mutual Legal Assistance Treaties with Australia, China and South Korea, and Indonesia joined other ASEAN nations in signing the ASEAN Treaty on Mutual Legal Assistance in Criminal Matter on

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November 29, 2004. The Indonesian Regional Law Enforcement Cooperation Centre was formally opened in 2005 and was created to develop the operational law enforcement capacity needed to fight transnational crimes.

¶31. Regarding international mechanisms, Article 43 of Government Regulation in Lieu of Law (Perpu) Number 1 Year 2002 concerning the Eradication of Criminal Acts of Terrorism as Enacted to be the Law Number 15 Year 2003 provides international cooperation with other countries in the field of intelligence, police, and other technical cooperation to combat terrorism and financing of terrorist in according to prevailing relevant laws. In this regard, the foreign authority shall address the request in writing to the Indonesian investigator, which, after been reviewed, the investigator will order the bank or the financial service provider wherein the suspect has the asset, to freeze it. The bank or the financial service provider shall then immediately freeze the asset.

¶32. In addition, there is other system applied, which is exchange information and intelligence between countries that is crucial for the effective combating the financing of terrorist and terrorism, in which such exchange has been promoted inter-alia within the context of International Criminal Police Organization (ICPO) - INTERPOL. The investigators shall conduct a freezing if it relates with assets located in other jurisdiction and then asking for assistances from Interpol and there has been existing mechanism thru INTERPOL for

Indonesia.

Continuing Challenges

¶33. Sustained public awareness campaigns, new bank and financial institution disclosure requirements, and the PPATK's support for Indonesia's first credible anticorruption drive have led to increased public awareness about money-laundering and, to a lesser degree, terrorism finance. Weak human and technical capacity, poor interagency cooperation, and corruption, however, still remain significant impediments to the continuing development of an effective and credible AML regime.

¶34. The highest levels of GOI leadership should continue to demonstrate strong support for strengthening Indonesia's anti-money laundering regime. In particular, the GOI must continue to improve capacity and interagency cooperation in analyzing suspicious and cash transactions, investigating and prosecuting cases, and achieving deterrent levels of convictions and custodial and administrative sentences and penalties. As part of this effort, Indonesia should review the adequacy of its Code for Criminal Procedure and Rules of Evidence and enact legislation to allow the use of modern techniques to enter evidence in court proceedings. Indonesia should review and streamline its process for reviewing UN designations and identifying, freezing and seizing terrorist assets, and become a party to the UN Convention against Transnational Organized Crime.

HUME